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EXAMINER

OCAMPO, MARIANNE S

ART UNIT

PAPER NUMBER

1723

2

DATE MAILED: 03/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/056,277

Applicant(s)

LAMB, DOUGLAS R.

Examiner

Marianne S. Ocampo

Art Unit

1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1-24-02 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the downward facing side of the filter component comprising crossbars that include **barbs or protrusions** for reducing backflow of fluid above the filter assembly, as in claim 19, must be shown or the feature must be canceled from the claim. No new matter should be entered.

2. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 10 – 13, 16 – 17 and 19 are objected to because of the following informalities:

a). The preamble of claims 10 – 13, namely “The apparatus of claim” should be changed to “The system of claim”, since the independent claim 8 claims a system and not an apparatus and for consistency.

b). Similarly, the preamble of claims 16 – 17 and 19, namely “The apparatus of claim” should be changed to “The system of claim”, since the independent claim 14 claims a system and not an apparatus and for consistency.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 – 5, 8 – 9, 11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Jepson (US 2,864,504).

6. Concerning claim 1, Jepson discloses an apparatus for separating particles (such as coffee grounds) from a fluid (coffee/brewed beverage) comprising a filter component (22) having an upward facing side and a downward facing side and at least two baffles (in the form of cross bars 28 and radially inward extending flanges 30) attached to or formed as part of the

downward facing side (in assembly) of the filter component (22) for reducing motion of the fluid around and through the filter assembly (in claim 1, the phrase “said filter assembly” found in the last two lines of the claim lacked proper antecedent basis, and has been considered by the examiner to be equivalent to the structure of the filter component plus the at least two baffles), as in figs. 1 – 3 and in cols. 1 - 6.

7. With regards to claim 2, Jepson also discloses the apparatus further comprising a receptacle (11, 14 and another lower vessel to receive brewed coffee, not shown) for containing the fluid, as in fig. 1 and in cols. 1 – 2.

8. Regarding claim 3, Jepson further discloses the receptacle further including a lid (at the top end of vessel portion 11) for covering at least the portion (11) of the receptacle, as in fig. 1.

9. With respect to claim 4, Jepson discloses the filter component further comprising an o-ring (32) encircling a perimeter of the filter component for securing the filter assembly in the receptacle (11), as in figs. 1 – 3.

10. Concerning claim 5, Jepson also discloses the filter component further comprising at least one aperture (22a) passing through the filter component capable of providing a means by which a user of the system (the term “said system” in this claim also lacked proper antecedent

basis and for examination purposes, has been considered to be equivalent in structure to the apparatus (i.e. filter assembly plus receptacle) being claimed as the invention) may easily remove the filter assembly from the receptacle, as in figs. 1 – 3.

11. Regarding claim 8, Jepson further discloses a system for separating particles (coffee grounds) from a fluid comprising a receptacle (11, 14 and lower vessel for brewed coffee, not shown) for containing the fluid and a filter assembly comprising a filter component (22) to fit the shape of the bottom opening/end of the receptacle portion (11) and wherein the filter component (22) comprises an upward facing side and a downward facing side; an o-ring (32) encircling a perimeter of the filter component for securing the filter assembly in the receptacle (11) portion and at least two baffles (28, 30) attached to or formed as part of the downward facing side of the filter component (22) for reducing motion of the fluid around and through the filter assembly, as in figs. 1 – 3 and cols. 1 - 6.

12. With respect to claim 9, Jepson also discloses the filter component further comprising at least one aperture (22a) passing through the filter component capable of providing a means by which a user of the system may easily remove the filter assembly from the receptacle, as in figs. 1 – 3.

13. With regards to claim 11, Jepson further discloses the receptacle further including a lid (at the top end of vessel portion 11) for covering at least the portion (11) of the receptacle, as in fig. 1.

14. Concerning claim 13, Jepson discloses the filter assembly and receptacle being fabricated as a single integrated unit, as in fig. 1 and cols. 1 – 6.

15. Claims 1 – 16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Fox (US 865,691).

16. Regarding claim 1, Fox discloses an apparatus for separating particles (sediment or dirt) from a fluid (water) comprising a filter component (first or top grating l and disk h) having an upward facing side and a downward facing side and at least two baffles (in the form of gratings l and deflector m provided at the bottom/lower end of the disk h) attached to or formed as part of the downward facing side (in assembly) of the filter component (top l, h) for reducing motion of the fluid around and through the filter assembly (in claim 1, the phrase “said filter assembly” found in the last two lines of the claim lacked proper antecedent basis, and has been considered by the examiner to be equivalent to the structure of the filter component plus the at least two baffles), as in fig. 3 and page 1.

17. With regards to claim 2, Fox also discloses the apparatus further comprising a receptacle (a or b, depending on direction of fluid flow) for containing the fluid, as in figs. 1 & 3 and in page 1.

18. Regarding claim 3, Fox further discloses the receptacle further including a lid [b or a, at the top or opposite end of receptacle portion a or b)] for covering at least the receptacle (a or b, respectively), as in figs. 1 and 3.

19. With respect to claim 4, Fox discloses the filter component further comprising an o-ring (e) encircling a perimeter of the filter component for securing the filter assembly in the receptacle (a or b), as in fig. 3 and page 1.

20. Concerning claim 5, Fox also discloses the filter component (in particular the top grating 1 portion of the assembly) further comprising at least one aperture passing through the filter component capable of providing a means by which a user of the system (the term “said system” in this claim also lacked proper antecedent and for examination purposes, has been considered to be equivalent in structure to the apparatus (i.e. filter assembly plus receptacle) being claimed as the invention) may easily remove the filter assembly from the receptacle, as in figs. 1 – 4.

21. With respect to claim 6, Fox further discloses the at least one aperture being defined by a band or ring of material formed from the same material as the filter component (l), as in fig. 4.

22. Regarding claim 7, Fox discloses the upward facing side of the filter component (l) further comprising cross bars that are tapered to minimize surface area of the filter component (l), as in fig. 3.

23. Regarding claim 8, Fox also discloses a system for separating particles (sediment or dirt) from a fluid (water) comprising a receptacle (a, b) for containing the fluid and a filter assembly wherein the assembly comprises a filter component (first or top grating l and disk h) shaped to fit the receptacle (a, b) and comprising an upward facing side and a downward facing side; an o-ring (e) encircling a perimeter of the filter component (top grating, l) for securing the filter assembly in the receptacle, and at least two baffles (in the form of grating l and deflector m provided at the bottom/lower end of the disk h) attached to or formed as part of the downward facing side (in assembly) of the filter component (top l, h) for reducing motion of the fluid around and through the filter assembly, as in fig. 3 and page 1.

24. With regards to claim 9, Fox further discloses the filter component (top grating l) further comprising at least one aperture passing through the filter component (l) capable of

providing a means by which a user of the system may easily remove the filter assembly from the receptacle, as in figs. 1 & 3.

25. Concerning claim 10, Fox discloses the at least one aperture being defined by a band or ring of material formed from the same material as the filter component (l), as in fig. 4.

26. With regards to claim 11, Fox further discloses the receptacle (only portion a) further including a lid (b, opposite portion a) for covering at least the portion (a) of the receptacle, as in figs. 1 & 3.

27. With respect to claim 12, Fox discloses the upward facing side of the filter component (top grating l) comprising cross bars that are tapered to minimize surface area of the filter component (top grating l), as in figs. 3 – 4.

28. Concerning claim 13, Fox discloses the filter assembly and receptacle being fabricated as a single integrated unit, as in figs. 1 & 3.

29. Regarding claim 14, Fox discloses a system for separating particles (sediment or dirt) from a fluid (water) comprising a receptacle (a) for containing the fluid, a lid (b) for covering the receptacle, and a filter assembly wherein the assembly comprises a filter component (first or top grating l and disk h) shaped to fit the receptacle (a, b) and comprising an upward facing side and

a downward facing side, the upward facing side of the filter component (particularly, top grating 1 (in the direction of the flow) comprising cross bars that are tapered to minimize surface area of the filter component (top grating 1), as in figs. 3 – 4.; an o-ring (e) encircling a perimeter of the filter component (top grating, 1) for securing the filter assembly in the receptacle, and at least two baffles (in the form of grating 1 and deflector m provided at the bottom/lower end of the disk h) attached to or formed as part of the downward facing side (in assembly) of the filter component (top 1, h) for reducing motion of the fluid around and through the filter assembly, as in figs. 1 - 4 and page 1.

30. With regards to claim 15, Fox further discloses the filter component (top grating 1) further comprising at least one aperture passing through the filter component (1) capable of providing a means by which a user of the system may easily remove the filter assembly from the receptacle, and the at least one aperture being defined by a band or ring of material formed from the same material as the filter component (1), as in figs. 3 - 4.

31. With respect to claim 16, Fox also discloses the filter assembly and receptacle being fabricated as an integrated unit for ensuring that the filter assembly fits securely in the receptacle, as in figs. 1 & 3.

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32. Regarding claim 18, Fox discloses the space between the cross bars being shaped to form funnel-like structures for encouraging dirt and debris to pass through the filter component (top grating, 1), as in fig. 3.

33. Concerning claim 19, Fox discloses the downward facing side of the filter component (grating 1) also comprising crossbars that include barbs or protrusions for reducing backflow of fluid above the filter assembly, as in fig. 3.

Claim Rejections - 35 USC § 103

34. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

35. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fox in view of Muto (US 4,685,472).

36. With regards to claim 17, although Fox fails to disclose the filter assembly and the receptacle being fabricated as a single inseparable unit, it is considered obvious to one of ordinary skill in the art at the time of the invention to modify (i.e. the assembly of) the system/apparatus of Fox such that the filter assembly is not removable from or permanently attached (i.e. inseparable or otherwise “integral or unitary with”) to the receptacle, as a matter of design choice by the manufacturer. The case law, In re Larson (340 F.2d 965, 968 144 USPQ 347, 349 (CCPA 1965)) has provided that a claim towards an invention in which it differs from that of a prior art by using a one piece construction instead of a structure disclosed in the prior art (i.e. several parts rigidly secured together as a single unit) would be merely a matter of obvious engineering choice. Muto teaches a similar apparatus/system to that of Fox, also for separating particles from a fluid comprising a receptacle (12) for containing a fluid, a lid (18) for covering the receptacle and a filter assembly (32, 26, 24) comprising a filter component (32, 26) having an upward facing side and a downward facing side and at least two baffles (in the form of cross bars 40 on retainer 26 and/or pedestal 24) attached to and formed as a part of the downside facing side of the filter component capable of reducing motion of fluid around and through the filter assembly, wherein the filter assembly and the receptacle being fabricated as a single inseparable unit (by bonding the portion 26 of the filter assembly to peripheral points on the pedestal 24 attached to the receptacle 12), as in figs. 1 – 7 and in col. 3, lines 1 - 2. It is considered obvious to one of ordinary skill in the art at the time of the invention to modify the apparatus/system of Fox by adding this embodiment (forming a single inseparable unit) taught by Muto, in order to provide an alternative design for the system which allows the filter assembly to be formed

inseparably from its receptacle, thereby providing a unitary filter assembly and receptacle which eliminates the use of multiple parts (i.e. additional fasteners such as o-rings and the like to fix the filter component in place) and thereby eliminating additional costs of those additional parts.

Conclusion

37. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 5,800,702 (Taylor-McCune et al.), 3,662,780 (Marsh), 765,131 (Croswell) and 3,295,686 (Krueger).

38. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne S. Ocampo whose telephone number is (703) 305-1039. The examiner can normally be reached on Mondays to Fridays from 8:00 A.M. to 4:30 P.M..

39. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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40. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

M.S.O.
M.S.O.
March 20, 2003

Walker
W. L. WALKER
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